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November 7, 2002

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: D.T.E. 02-45

Dear Ms. Cottrell:

On November 1, 2002, Global NAPs, Inc. ("GNAPs") provided the Commission with three recent decisions. Rather than simply transmit these decisions for the Commission's evaluation, GNAPs provided supplemental briefing well after the close of time for filing post-hearing briefs. Because GNAPs has submitted argument improper at this stage of the arbitration, Verizon New England Inc., d/b/a Verizon Massachusetts ("Verizon MA") seeks leave to file this brief response.

As an initial matter, GNAPs cites a "recommended decision" of the Arbitrator, not a final order of the New Hampshire Commission, in GNAPs's arbitration with Verizon New Hampshire. GNAPs nevertheless suggests that the Report of the New Hampshire Arbitrator is "relevant legal authority" and relies on the Arbitrator's conclusion that GNAPs is entitled to a single point of interconnection in a LATA (Issue 1). Global fails to mention that the Arbitrator agreed with Verizon's position that interconnection must take place at a technically feasible point on Verizon's network, just as Verizon MA advocates here."¹ GNAPs also cites the New Hampshire Arbitrator's recommendation that Verizon be financially responsible for transport to the physical point of interconnection with Global (Issue 2). Issue 2 in New Hampshire, however, concerned adoption of Verizon's VGRIPs proposal, a proposal applicable to Verizon-originated traffic and that is not at issue here. As Verizon MA explained in its post-hearing briefs, Issue 2

¹ *Petition of Global NAPs, Inc. for Arbitration Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 to Establish Interconnection Rates, Terms and Conditions with Verizon NH Inc. f/k/a Bell Atlantic - New Hampshire, Inc.*, Report and Recommendation of the Arbitrator Addressing Contested Issues, Docket No. DT 02-107 at 5 (rel. Oct. 10, 2002) ("*Verizon/GNAPs New Hampshire Recommended Decision*").

in this case concerns GNAPs' financial responsibility for GNAPs – originated traffic.² Notably, even though GNAPs cites the New Hampshire Arbitrator's decision for support it does not provide, GNAPs failed to mention that the decision adopted Verizon's proposed language in all but two of the contested contract sections.³

In addition to GNAPs' selective presentation and mischaracterization of the New Hampshire Arbitrator's recommended decision, GNAPs also references a separate New Hampshire Commission's decision – in a generic docket that focused only on the use of virtual NXX assignments – are misleading. GNAPs asserts that the decision permits the use of virtual NXX codes by GNAPs and other CLECs, but fails to mention that this only applies to non-ISP traffic and “only when [the CLEC] is providing service to at least one customer physically located in the exchange from which the FX service is requested.”⁴ The New Hampshire Commission also stated: “although CLEC local calling areas need not mirror the ILEC local calling areas, reciprocal compensation or access charges for non-ISP traffic will be assessed in accordance with the ILEC local calling areas.”⁵ That is not what GNAPs has proposed here. GNAPs also fails to mention that for Internet-bound traffic, the New Hampshire Commission ordered the creation of a new service – information access NXX, or IANXX – that makes use of specially assigned numbers and will therefore make it easier to identify what portion of the traffic is destined to Internet providers. Again, that is not what Global has proposed here, and the creation of a new service is not an issue that should be addressed in an arbitration between two carriers.

By separate letter, GNAPs also filed the New Hampshire Arbitrator's Supplemental Report and Recommended decision with respect to Issues 3 and 4. GNAPs again provides comments but neglects to note that the decision again states that “reciprocal compensation or access charges for non-ISP traffic will be assessed in accordance with the ILEC local calling areas”⁶ and that “effective May 1, 2003 all NXX blocks being used for VNXX shall be rated to the rate center where the traffic is delivered under an irrebuttable presumption that the traffic is non-ISP, except for traffic that originates in the same local calling areas as the CLEC point of

² See Verizon Post-Hearing Br. at 8-10; Verizon Post-Hearing Reply Br. at 26-28.

³ *Verizon/GNAPs New Hampshire Recommended Decision* at 10.

⁴ *Id.* at 56.

⁵ *Investigation as to Whether Certain Calls are Local, Independent Telephone Companies and Competitive Exchange Carriers - Local Calling Areas*, Final Order, Order No. 24,080, New Hampshire Public Utilities Commission at 57-58 (rel. Oct. 28, 2002).

⁶ *Petition of Global NAPs, Inc. for Arbitration Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 to Establish Interconnection Rates, Terms and Conditions with Verizon NH Inc. f/k/a Bell Atlantic - New Hampshire, Inc.*, Report and Recommendation of the Arbitrator Addressing Contested Issues, Docket No. DT 02-107 at 3 (rel. Nov. 1, 2002) (“*Verizon/GNAPs New Hampshire Supplemental Decision*”).

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interconnection (POI) and exceeds the 3:1 ratio set out by the FCC Traffic Remand Order, which will be rated to the rate center in which the POI is located.”⁷

Finally, if the Commission deems it appropriate to review supplemental authority, it should review the attached order on rehearing from the Ohio Public Utilities Commission, *In the Matter of the Petition of Global NAPs Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon North Inc.*, Case No. 02-876-TP-ARB, entered October 31, 2002, which is directly on point to the issues presented here. The Ohio Commission’s Arbitration Award was favorable to Verizon on virtually every issue and it specifically considered and rejected many of the arguments GNAPs makes here, including, GNAPs’ arguments with respect to the FCC’s ISP Remand Order.⁸

Thank you for your attention to this matter. If you have any questions, please call me at (617) 743-6744.

Sincerely,

/s/Keefe B. Clemons

Keefe B. Clemons

Enclosures

cc: Tina W. Chin, Arbitrator
Michael Isenberg, Director, Telecommunications Division
Peter Allen, Telecommunications Analyst
James R. J. Scheltema, Director - Regulatory Affairs – Global NAPs
William J. Rooney, Jr., Vice President and General Counsel – Global NAPs

⁷ *Verizon/GNAPs New Hampshire Supplemental Decision* at 3 (footnote omitted).

⁸ *Petition of Global NAPs Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon North Inc.*, Arbitration Award, Case No. 02-876-TP-ARB (rel. September 5, 2002).